

objection has been eliminated by the correction of the drawings.

Claims 1, 6, 8 and 16 have been amended to clarify the invention and distinguish over the cited reference. Attached hereto is a copy of all of the claims including claims 1, 6, 8, and 16 as amended. Additional claim dependent claim 11, Independent claim 12 to the method of using the device of claims 1-11 and claims 13-15 dependent thereon have been added.

Claims 1, 3-5 and 8 were rejected under 35 USC § 102 (b) as anticipated by Cooper (US Patent 2,701,559) in that Cooper shows a device for removing live tissue cells from a tissue surface comprising a vacuum, a tube and an abrasive surface. The examiner interpreted Cooper as having a tube for applying the vacuum to the tissue surface. As to claim 3-5, the examiner pointed out that Cooper includes a valve mechanism.

Cooper is a device for exfoliating abnormal cells from the inner walls of hollow viscera, such as removing cancerous mucousal tissue cells from the internal walls of a body organ (stomach or duodenum), on fibers attached to an extended balloon. Cooper found that normal mucousal tissue is not exfoliated and only abnormal tissue is removed by his device. While it uses a vacuum to collect fluid present within the organ, the vacuum plays no part in the tissue collection process. In fact, Cooper deflates the balloon to trap the collected abnormal cells on the fibrous surface of the balloon. There is no suggestion that the vacuum plays any part in the collection of the cells. Still further, the removal of tissues from the moist internal surface of organs (mucousal tissue) is much different from abrading outer skin surfaces. The device of Cooper would be totally ineffective for removing outer layers of skin as it does not show or suggest suitable abrasive properties. In any event, claim 1 has been amended to clearly distinguish over Cooper. The difference between mucousal tissue and skin surfaces as to consistency and the ease or difficulty of removing cells is very significant and can not be dismissed as merely an intended use of the device. For example, tissue is typically removed from internal organ surfaces, as addressed by Cooper, using a cotton swab or simply moving a collection device over the mucousal surface. Such a procedure is totally ineffective for removing portions of the external skin surface. No one skilled in the art would use a device such as disclosed by Cooper for the purposes addressed by applicant. A totally different device with distinctly different abrasive and operating properties is required.

In applicant's claimed device the vacuum is applied directly to the skin surface being treated, the vacuum serving to create intimate contact between the abrasive surface and the skin surface being treated. The tissue cells abraded and dislodged from the skin surface are then picked up by the vacuum and deposited in a collection container. This is not simply a